IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18172 of 2004

Between:

1 Jayanagar Welfare Association, Reggd. No.113/88, Cuddapah, rep. by its President Kotha Rama Subbaiah, S/o. Kotha Ramaiah, Age 73 years, R/o. H.No.7/29, Jaya Nagar Colony, Kadapa District.
2 Velagacherla Jayarami Reddy, S/o. Subba Reddy

Co-Operative Blds Society, R/o. D.No.7/556, Jayanagar Colony,
Cuddapah Town & District.
3 Santhakala Munaiah, S/o. Pedda Veeraiah, Cuddapah, R/o. Cuddpah.
4 Smt. Hemalatha Devi, W/o. Hemaraj Jain, R/o. Door No. 18/505, B.K.M. Street, Kadapa Town, Kadapa District.
5 S. Prakash Chand Jain, S/o. Hemraj, R/o. Door No. 18/505, B.K.M. Street, Kadapa Town, Kadapa District. **..... PETITIONER(S)**

AND

1 Govt of A.P., rep. by its Secretary,
Department of Agriculture & Co-Operation, Secretariat, Hyd.
2 The Spl. Chief Secretary to Govt, Department of Housing (CH),

Secretariat, Hyd.
3 M. Venkata Ramana, S/o. Venkatappa,
R/o. 7/536-6, Opp. Venkateshwara Remple, Jayanagar Colony,

Kdadpa Town & District. **.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the order in Memo No.327/Ch1/2004-1, dt. 23.2.2004 passed by the 2nd respondent staying the operation of Award in Arbitration case C.L.No.2/2002-03 Dt. 28.1.2004 passed by the Divisional Co-Operative Officer, Cuddapah, as the same is passed illegally, arbitrarily, contrary to principles of natural justice and without jurisdiction and contrary to specific provisions contained in Ss.76&77 of A.P.Co-Operative Societies Act, 1964 and consequently set aside the said order in Memo No.327/Ch1/2004-1, Dt. 23.2.2004 passed by the 2nd respondent and pass.

Counsel for the Petitioner:MR.K.VENKATESH GUPTA
Counsel for Respondents 1 & 2: GP FOR COOPERATION

Counsel for Respondent No.3: --

The Court at the stage of admission made the following Order:

This writ petition is filed seeking a declaration that the order passed by the second respondent-Special Chief Secretary to Government, Department of Housing (CH), Secretariat, Hyderabad, dated 23-02-2004, as illegal and arbitrary.

As can be seen from the material on record, the Divisional Co-operative Officer, Kadapa passed an Award dated 28-01-2004 holding that the allotment and sale of land to the third respondent herein is illegal. Aggrieved by the same, the third respondent herein preferred an Appeal under Section 76(1) of the A.P. Co-operative Societies Act, 1964 (for short, 'the Act') and the same is pending. The writ petitioners are the respondents 1 to 5 in the said Appeal.

Now, this writ petition is filed alleging that the third respondent has simultaneously preferred a Revision before the 1st respondent – Government of Andhra Pradesh in which by order dated 23-02-2004 the operation of the Award dated 28-01-2004 has been stayed.

The only contention raised by the learned counsel for the petitioners is that since the Award dated 28-01-2004 is appealable under Section 76 of the Act, the revision is not maintainable and therefore the impugned order of stay cannot be sustained and liable to be set aside.

It is always open to the petitioners to contest the Revision Petition before the 2nd respondent by urging all the grounds as available under law including the objection as to the maintainability of the revision. The petitioner cannot be permitted to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, without raising such objection before the authority before whom the proceedings are pending.

In the circumstances, the writ petition is disposed of granting leave and liberty to the

petitioners to make an appropriate application before the second respondent in the revision said to have been pending. If such an application is filed, the same shall be considered and appropriate orders shall be passed as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order.

Accordingly, the writ petition is disposed of. No costs.

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07-10-2004

kdl

To

1 The Secretary ,Govt of A.P., Department of Agriculture & Co-Operation, Secretariat, Hyd.
2 The Spl. Chief Secretary to Govt, Department of Housing (CH),

Secretariat, Hyderabad.

3 Two C.Cs. to the Government Pleader for Co-operation, High Court Buildings, A.P., Hyderabad, (OUT).

4 Two C.D. Copies.